

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 14, 2008. At the time of the Office Action, Claims 1-3, 5-9 and 15 were pending in this Application. Claims 1-3, 5-9 and 15 were rejected. Claims 1 and 15 have been amended. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 1 and 5-9 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,544,816 issued to Debora A. Nally et al. (“*Nally*”). Applicant respectfully traverse and submits the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Applicant amended the independent claims 1 and 15 to include the limitation that the second part is arranged movably with respect to the nozzle. This limitation is shown for example in Figs. 2 and 3 and specification page 8, paragraph [0024]. thus, no new matter has been introduced.

The Examiner stated that element 22 of *Nally* constitutes the second part. However, if element 22 is considered as the second part, this element is clearly not moveable with respect to the nozzle. Part 22 constitutes an armature and is used to support a spring 20 which allows for movement of adjustment tube 14 relative to the nozzle. Hence, only adjustment tube 14 would constitute a second part as defined in the amended independent claims. However, adjustment tube 14 does not comprise a guide zone that either guides the needle or a guide zone of the first part.

Hence, the present independent claims 5-9 are not anticipated by *Nally*. Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the

independent Claim to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary, and do not concede that the Examiner's proposed combinations are proper.

Rejections under 35 U.S.C. §103

Claims 1-3, 5-9 and 15 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,215,820 issued to Udo Renger ("Renger") in view of *Nally*. Applicant respectfully traverses and submits the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on *ex post* reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner stated that *Renger* does not disclose that the needle has a guided zone or that the second part has a guide zone that guides the guided zone of the needle. The Examiner however stated that *Nally* teaches this limitation. Applicant respectfully disagrees. As stated above, *Nally* does not disclose a second part that is moveable with respect to the nozzle and also guides the needle. The moveable part of *Nally* is depicted with adjustment tube 14 which clearly does not guide the needle. Hence a combination of *Renger* and *Nally* will not render the independent claims obvious. Applicant respectfully submits that the

dependent Claims 2, 3, and 5-9 are allowable at least to the extent of the independent Claim 1 to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of the pending claims.

Applicant believes there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
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Date: June 9, 2008

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